

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent Application of

Atty Dkt. 4398-129
C# M#

MADAUS et al.

TC/A.U. 3761

Serial No. 10/070,346

Examiner: Glenn K. Dawson

Filed: June 21, 2002

Date: November 2, 2004

Title: DEVICE FOR DETECTING THE RESPIRATORY ACTIVITY OF A PERSON

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.****Fees are attached as calculated below:**

Total effective claims after amendment **12** minus highest number
previously paid for **20** (at least 20) = **0** x \$ **18.00**

Independent claims after amendment **3** minus highest number
previously paid for **3** (at least 3) = **0** x \$ **88.00**

If proper multiple dependent claims now added for first time, add \$300.00 (ignore improper)

Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$430.00/2 months; \$980.00/3 months)

Terminal disclaimer enclosed, add \$ 110.00

☐ First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$790.00)

☐ Please enter the previously unentered, filed

☐ Submission attached

Subtotal \$ 0.00

If "small entity," then enter half (1/2) of subtotal and subtract

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee (\$180.00)

Assignment Recording Fee (\$40.00)

Other: Response

TOTAL FEE ENCLOSED \$ 0.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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PTB:jckNIXON & VANDERHYE P.C.
By Atty: Paul T. Bowen, Reg. No. 38,009Signature: 



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For: DEVICE FOR DETECTING THE RESPIRATORY
ACTIVITY OF A PERSON

* * * * *

November 2, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE

RECEIVED
NOV 05 2004
TECHNOLOGY CENTER R3700

In response to the Office communication dated October 26, 2004, the following supplemental response points out the subject matter in newly added independent claims 34 and 35 which the previously applied references did not disclose or suggest.

Independent claim 34 is directed to a device to deliver a breathable gas towards a patient. The device includes a pressure controller and a detector to detect the breathing activity of a person. The detector includes a flow sensor and at least one signal processor. The signal processor is configured to generate a reference-relation on the basis of said first signal detected over a first time period, said first time period being set so as to cover at least two breathing cycles. The signal processor is also configured to generate a correlation-relation between the reference-relation and the first signal. Phillips does not teach or suggest this subject matter. Instead, Phillips discloses the generation of

a pair of signals S and S_d wherein S and S_d are subjected to a real time comparison for detecting periods of inspiration and expiration. As such, Phillips does not appear to generate a reference-relation over a first time period so as to cover at least two breathing cycles. In addition, Phillips does not teach or suggest the generation of a correlation-relation between the reference relation and the first signal.

Further, claim 35 is directed to a device to supply breathing gas to a patient above ambient pressure. The device includes feeding means and at least one detector to detect breathing gas pressure and/or the breathing gas flow. A signal processor is adapted to generate a reference-relation on the basis of each detected signal. In addition, the signal processor is adapted to adjust the breathing gas pressure on the basis of a correlation between the reference-relation and a prevailing breathing pattern. Phillips does not teach or suggest a signal processor adapted to adjust the breathing gas pressure on the basis of a correlation between the reference-relation and a prevailing breathing pattern.

Sullivan et al. appears to be completely silent in respect to the approach of generating a reference function and a correlation relation.

Accordingly, Applicants respectfully submit that the present response, in combination with the response of February 13, 2004, is fully responsive to the October 23, 2003 Office Action.


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Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


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